

ARKANSAS SENATE
84th General Assembly - Regular Session, 2003
Amendment Form

Subtitle of House Bill No. 1213

"AN ACT TO ADDRESS INSURANCE COVERAGE FOR NURSING HOME PATIENTS
AND PERSONAL INJURY CLAIMS AGAINST NURSING HOMES."

Amendment No. 6 to House Bill No. 1213.

Amend House Bill No. 1213 as engrossed, H2/17/03:

Page 4, line 27, delete "presiding officer" and substitute "President Pro Tempore"

AND

Page 4, line 30, delete "presiding officer" and substitute "Speaker"

AND

Page 6, line 8, delete "two hundred dollars (\$200)" and substitute "four hundred dollars (\$400)"

AND

Page 7, line 7, delete "presiding officer" and substitute "President Pro Tempore"

AND

Page 7, line 8, delete "presiding officer" and substitute "Speaker"

AND

Page 7, delete lines 9 and 10 and substitute the following:
"Representatives. The directors appointed by the President Pro Tempore of the Arkansas Senate and the Speaker of the Arkansas House of Representatives shall serve for"

AND

Page 9, delete line 15 and substitute the following:
"defined by § 20-10-213(4); provided, that "skilled nursing facility" does



not include a residential care facility, post-acute head injury retraining and residential care facility, assisted living facility, or intermediate care facility for the mentally retarded."

AND

Page 9, line 26, delete "commenced" and substitute "brought"

AND

Page 9, delete lines 27 and 28 and substitute the following:
"the county where the accident occurred which caused the injury or death, or in the county where the person injured or killed resided at the time of injury. Any claim filed against a participating facility prior to the"

AND

Page 9, delete line 33 and substitute the following:
"Upon request by a participating facility which maintained coverage from the fund for the relevant period, other than a participating"

AND

Page 10, delete lines 8 and 9 and substitute the following:
"participating facility, the circuit court, upon the motion of the parties or its own"

AND

Page 10, delete lines 28 and 29 and substitute the following:
"(a) A claim against a participating facility shall be filed with the administrator"

AND

Page 13, line 10, delete "accrued" and insert "accrued"

AND

Page 13, delete line 28 and substitute the following:
"law.
(d) With respect to a participating facility which did not maintain coverage from the fund for the relevant period, a claim that has been approved by the administrator, or a claim that has been adjudicated to a final administrative order or a final judgment of a circuit court, shall be paid, and execution may be had thereon, as in judgments at law."

AND

Page 13, line 30, delete "from suit"

AND

Page 13, delete lines 33 through 35 and substitute the following:
"acts performed solely as a treating physician of a patient, or for ordinary negligence, or for intentional wrongdoing. The medical director shall not be liable for any other acts or omissions performed within the scope of employment as a medical director. The immunity"

AND

Page 14, delete lines 4 through 36 and substitute the following:

"20-10-1920. Privileged communications.

(a)(1) The proceedings and records of peer review committees of skilled nursing facilities shall not be subject to discovery or introduction into evidence in any civil action against such skilled nursing facilities arising out of the matters which are subject to evaluation and review by the committee.

(2) No person who was in attendance at a meeting of the committee shall be permitted or required to testify in any such civil action as to any evidence or other matters produced or presented during the proceedings of the committee or as to any findings, recommendations, evaluations, opinions, or other actions of the committee or any members thereof.

(3)(A) However, information, documents, or records otherwise available from original sources are not to be construed as immune from discovery or use in any such action merely because they were presented during the proceedings of the committee. Nor shall any person who testifies before the committee or who is a member of the committee be prevented from testifying as to matters within his knowledge, but the witness shall not be asked about his testimony before the committee or about opinions formed by him as a result of the committee hearings.

(B) The submission of such peer review proceedings, minutes, records, reports, and communications to a governing board shall not operate as a waiver of the privilege.

(b)(1) The proceedings, minutes, records, or reports of organized quality assurance committees of skilled nursing facilities having the responsibility for reviewing and evaluating the quality of medical care at skilled nursing facilities, and any records compiled or accumulated by the administrative staff of such skilled nursing facilities in connection with such review or evaluation, together with all communications or reports originating in such committees, shall not be subject to discovery pursuant to the Arkansas Rules of Civil Procedure or admissible in any legal proceeding and shall be absolutely privileged communications.

(2)(A) The submission of such proceedings, minutes, records, reports, and communications to a governing board shall not operate as a waiver of the privilege.

(B) Neither shall testimony as to events occurring during the activities of such committees be subject to discovery pursuant to the Arkansas Rules of Civil Procedure.

(C) Nothing in this section shall be construed to prevent disclosure of the data mentioned in subsection (b) of this section to appropriate state or federal regulatory agencies which by statute or regulation are entitled to access to such data, nor to governing boards.

(D) Further, nothing in this section shall be construed to prevent discovery and admissibility if the legal action in which such data is sought is brought by a skilled nursing facility which has been subjected to censure or disciplinary action by a governing board.

(E) Nothing in this section shall be construed to apply to original medical records, incident reports, or other reports with respect to the care or treatment of any patient or to affect the discoverability or admissibility of such records."

AND

Page 15, delete lines 1 through 13

AND

Page 15, delete line 15 and substitute the following:
"20-10-1921. Punitive damages."

AND

Page 15, delete line 33 and substitute the following:
"20-10-1922. Limitation on supersedeas."

The Amendment was read the first time, rules suspended and read the second time and _____
By: Senator Horn
LDH/JMB - 040720031443
JMB574 _____ Secretary